

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

STACY ANN WILSON,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Case No. 1:22-cv-00429-BAK (BAM)

ORDER DIRECTING CLERK OF COURT
TO RANDOMLY ASSIGN DISTRICT
JUDGE

FINDINGS AND RECOMMENDATIONS
RECOMMENDING PLAINTIFF'S MOTION
FOR LEAVE TO PROCEED IN FORMA
PAUPERIS BE DENIED

(Doc. 2)

FOURTEEN (14) DAY DEADLINE

Plaintiff Stacy Ann Wilson ("Plaintiff"), proceeding with counsel, seeks review of a decision of the Commissioner of Social Security. Plaintiff initiated this action on April 12, 2022. (Doc. 1). On the same day, Plaintiff filed an application to proceed *in forma pauperis* under 28 U.S.C. § 1915. (Doc. 2). According to Plaintiff's application, she is not currently employed, but she receives \$1,400.00 every two weeks from UPS due to her injury. She does not have any identified dependents. (*Id.* at 1-2.)

Having considered Plaintiff's application, the Court finds that she has not made the showing required by section 1915 that she is unable to pay the required fees for this action.

1 Plaintiff's action reveals that she receives approximately \$1,400.00 every two weeks, which
2 amounts to an annual income of approximately \$36,400.00 (\$1,400 x 26).

3 Many courts look to the federal poverty guidelines set by the United States Department of
4 Health and Human Services ("HHS") as a guidepost in evaluating in forma pauperis applications.
5 *See Martinez v. Kristi Kleaners, Inc.*, 364 F.3d 1305, 1307 n.5 (11th Cir. 2004); *Boulas v. United*
6 *States Postal Serv.*, No. 1:18-cv-01163-LJO-BAM, 2018 WL 6615075, at *1 (E.D. Cal. Nov. 1,
7 2018) (applying federal poverty guidelines to in forma pauperis application). For a family or
8 household of one, the 2022 poverty guideline is \$13,950.00. *See U.S. Federal Poverty Guidelines*
9 *Used to Determine Financial Eligibility for Certain Federal Programs*, available at
10 <https://aspe.hhs.gov/poverty-guidelines> (last visited April 13, 2022). Plaintiff's estimated annual
11 income exceeds this amount. She also has not identified monthly expenses that exceed her
12 monthly income. *Lopez-Ruiz v. Tripler Army Med. Ctr.'s Postdoctoral Fellowship in Clinical*
13 *Psychology*, No. CV. 11-0066 JMS/BMK, 2011 WL 486952, at *1 (D. Haw. Feb. 4, 2011)
14 (denying in forma pauperis status to plaintiff whose income was \$1,800 per month and whose
15 monthly income exceeded monthly expenses).

16 Accordingly, the Clerk of the Court is HEREBY DIRECTED to randomly assign a
17 District Judge to this action.

18 Furthermore, it is HEREBY RECOMMENDED that:

- 19 1. Plaintiff's application to proceed without prepayment of fees and costs (Doc. 2) be
20 DENIED; and
- 21 2. Plaintiff be required to pay the \$402.00 filing fee in full to proceed with this
22 action.

23 These findings and recommendations are submitted to the United States District Judge
24 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **fourteen**
25 **(14) days** after being served with these findings and recommendations, Plaintiff may file written
26 objections with the Court. Such a document should be captioned "Objections to Magistrate
27 Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections within
28 the specified time may result in the waiver of rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d

834, 838-39 (9th Cir. 2014) (*citing Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

IT IS SO ORDERED.

Dated: April 13, 2022

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE